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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/024,495

12/21/2001

Gilles Rubinstenn

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03/20/2006

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EXAMINER

SETH, MANAV

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/024,495

Applicant(s)

RUBINSTENN ET AL.

Examiner

Manav Seth

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant's arguments regarding the prior art rejections under Hillebrand and Krusin on pages 2-10 have been fully considered but are not persuasive.
2. Applicant argues in substance:
 - a. Neither Hillebrand nor Krusin discloses displaying the skin condition image such that the subject is substantially unidentifiable.

Examiner respectfully disagrees. As disclosed before in the rejection, Hillebrand teaches taking an image of the subject's face and then extracting sub-image from the face image to extract the skin condition and thus making subject identifiable (as shown in figures) and does not explicitly teach directly taking an image of the subject's skin. However, examiner asserted that image processing operations are well known to remove the image portions from the images to just extract the part that is required and such software's are very well known (for example, Adobe Photoshop) and that it would have been obvious for one of ordinary skill in the art to accept the fact that if an image of just a skin (or sub-image) of the subject is taken and displayed as disclosed by Hillebrand, the subject would be unquestionably unidentifiable and examiner further cites Krusin to further provide more support. Krusin's invention relates to methods and systems for the computer controlled image analysis of skin, which further includes the automatic characterization of the skin, based on the digital images (col. 1, lines 20-30). Krusin clearly teaches "the digital images may be obtained by directly imaging the region of interest with a digital camera" (col. 4, lines 12-16) and further discloses "the skin is imaged directly" (col. 8, lines 52-55). Krusin further adding more emphasis on figures 6, 7 and 8 where the image of skin portion is taken and the skin condition is extracted and displayed and therefore making subject obviously unidentifiable for a person of ordinary skill in the art. Hillebrand clearly teaches extraction of skin conditions and skin conditions being wrinkles, pores and etc and one of ordinary skill in the art would not be able to identify the person's identity based on the skin conditions when displayed and examiner by citing Krusin had provided enough evidence in the figures cited. Therefore, Examiner still maintains the rejection.

3. Applicant argues in substance in first paragraph of page 5 of the arguments:
 - b. The analysis of spots on skin is not the same as, and does not suggest, analysis of hair or nails.

Examiner respectfully disagrees. Defining a spot on a skin being a pattern of different color on the skin. Both hairs and nails are patterns of different colors present on the skin and are externally present and therefore qualify for being treated as spots on the skin. Hillebrand clearly discloses the analysis of "texture, wrinkles, pores, and/or spots" on the skin (col. 6, lines 1-15) and these attributes of skin are external part of the body and so are hairs and nails and all these attributes change with the age of the subject. As disclosed above by Hillebrand the analysis of spots and wrinkles (patterns) present on the skin, the nails and hairs as a matter of fact are similarly present as spots or patterns of different colors on the skin and therefore in view of above arguments it would have been obvious for one of ordinary skill in the art at the time of invention was made to analyze nails and hairs similarly. Therefore, Examiner still maintains the rejection.

4. Applicant argues in substance in first paragraph of page 7 and page 8 of the arguments:
 - c. Peyron and EHC Journal makes no mention of image skin analysis.

Examiner respectfully disagrees. Examiner relies on Hillebrand and Krusin to provide image skin analysis to extract the skin conditions and relies on Peyron to teach that powder is well known to be used when applied on the skin to better emphasize on the skin defects, and EHC Journal to teach the use of ultraviolet light (woods lamp) in skin condition extraction is well known, since Hillebrand and Krusin are directed to image skin analysis, applying powder as suggested by Peyron and Woods lamp by EHC Journal would emphasize better on the skin defects. Also, both Hillebrand and Krusin mention taking images of the skin when illuminated by some light sources. Therefore, Examiner still maintains the rejection.


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